



CITY OF MILWAUKEE

City Hall, 200 E. Wells Street, Milwaukee, WI 53202 • www.city.milwaukee.gov

September 18, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch:

The City of Milwaukee writes to express its concerns about the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. The City of Milwaukee began working with small cell service providers in 2015 and has negotiated contracts with five different companies to allow for collocation on City facilities and assets. These contracts have come with a learning curve in understanding the various companies' needs, while preserving public safety through protection of our facilities. We have diligently worked through adjustments in our processes to allow for collocation because Milwaukee is excited about the technology and the increased service level it can provide to our community.

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability.

- **The FCC's proposed new collocation shot clock category is too extreme.** The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal. While a simple permit

review can often be completed in the amount of time prescribed, the review time needed for evaluating the integrity of preexisting structures and their ability to accommodate additional equipment may exceed the FCC's proposed time constraints.

- **The FCC's proposed definition of "effective prohibition" is overly broad.** The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding. The draft report and order sets permit fees lower than currently offered to any other utility or business for services within the Right of Way. Fees specified simply aren't enough to cover staff time to provide a full review to protect our facilities and the public. Defining the fees means that in future years as costs undoubtedly increase, so too will our inability to recover costs. Taxpayers will be subsidizing construction of the network for the wireless providers.
- **The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is why many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. The FCC should not interfere with local government contracts that were negotiated in good faith. Our contracts set an initial term of 5 years, and at a minimum, that term should be honored. Our rate was negotiated based on market analysis and limiting the fee cheats local governments that plan to pass that revenue to the taxpayers by increasing services.

The City of Milwaukee has worked with private business to build the best broadband infrastructure possible for our residents. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Respectfully submitted,



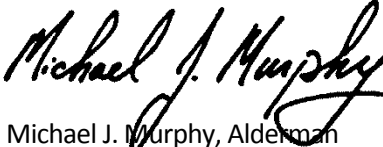
Tom Barrett, Mayor



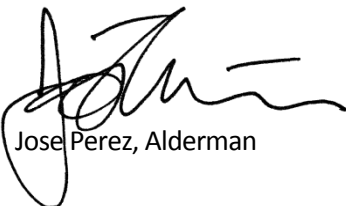
Ashanti Hamilton, Common Council President



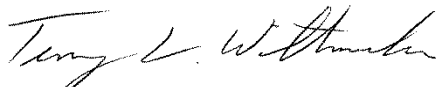
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Michael J. Murphy, Alderman



Jose Perez, Alderman



Terry Witkowski, Alderman